

Testimony of Peter Sachs, Esq.

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Members of the Committee, I thank you for the opportunity to speak before you again today. My name is Peter Sachs. I'm a nationally-known drone advocate, a commercial helicopter pilot, a drone pilot, publisher of DroneLawJournal.com, founder of the Drone Pilots Association and a Connecticut attorney.

I would first like to thank this Committee and its staff for taking the time to properly investigate and determine what a state may and may not do with respect to drones (and aviation in general), before acting. Many states have failed to do that, and you should be congratulated for not emulating them. I would also like to thank you for inviting me to be a part of that process.

Today we are here to discuss two things:

- 1. whether a warrant should be required for law enforcement to use drones as another tool to do its job, and*
- 2. whether our video voyeurism statute should be revised to specify that what is already clearly prohibited, is prohibited if done with a drone.*

SB-974: The proposed warrant requirement.

As I have stated during previous testimony, the US Supreme Court has already made it abundantly clear that no warrant is required to use a manned "aircraft" for law enforcement patrolling purposes, which includes looking at people and things.

According to the US Supreme Court, no warrant is required by law enforcement while operating "flying patrol cars," as long as they use technology:

- *that is in the general public use;*
- *that is used while in a place he or she is legally permitted to be; and*
- *when the subject it views is in "plain sight,"*

The FAA considers drones to be "aircraft," and in an administrative appeal the NTSB supported that position. Drones *are* now aircraft under the federal statutory and regulatory definitions.¹ It follows that, as aircraft, drones should be treated in the same manner as *manned* aircraft with respect to warrants.

Although using a "reasonable suspicion" standard to permit warrantless drone use for certain periods of time is somewhat encouraging, requiring a warrant

¹ Administrator v. Pirker, Docket CP-217 (2014) - [nts.gov/legal/alj/Documents/Pirker-CP-217.pdf](https://www.nts.gov/legal/alj/Documents/Pirker-CP-217.pdf)

under any of the circumstances where the Supreme Court has already deemed it unnecessary goes too far, has no support in law and as such, I do not support it.

SB-971: The proposed modification to video voyeurism statute.

Connecticut's existing video voyeurism statute already covers *the act* that you aim to prohibit, *regardless of the method used* to commit that act. There is no logical need to insert the "with a drone" language. Doing so is akin to adding "with a baseball bat" to the state's murder statute.

That said, the modifications to our existing statute changes nothing. It remains the same statute it is. You could add "using a long pole with a camera attached to its end" and it would *still* not change anything. For that reason I will not object to it, except for academic reasons. Namely, surplusage has no place in our bodies of law.

I thank you again for the opportunity to testify before you, and I will be happy to answer any questions.

Supreme Court Cases:

- **California v. Ciraolo** 476 U.S. 207 (1986) No warrant was required because “the Fourth Amendment simply does not require the police traveling in the public airways at this altitude to obtain a warrant in order to observe what is visible to the naked eye.” *[Drones travelling in the public airways (which the FAA asserts is from the surface up) would not require a warrant under this holding]*
- **Florida v. Riley** 488 U.S. 445 (1989) No warrant was required because “any member of the public could legally have been flying over Riley's property in a helicopter at the altitude of 400 feet and could have observed Riley's greenhouse. The police officer did no more.” *[Any member of the public can fly a drone over someone's property at an altitude of less than 400 feet (the recommended maximum altitude). So no warrant would be required under this holding]*
- **Kyllo v. US** 533 U.S. 27 (2001) Warrant was required “where the Government uses a device that is not in general public use, (FLIR) to explore details of the home that would previously have been unknowable without physical intrusion.” *[Drones are in general public use, as are the ordinary cameras they carry. So no warrant would be required under this holding]*
- **US v Jones** 132 S. ct. 945, 565 U.S. ____ (2012)
Warrant is required when the government's attaches a GPS tracker to a person's personal effects because it is a trespass. *[A drone flying in public airspace is not a trespass, so no warrant would be required under this holding.]*

CT's existing video voyeurism statute.

Sec. 53a-189a. Voyeurism: (a) A person is guilty of voyeurism when,

(1) with malice, such person knowingly photographs, films, videotapes or otherwise records the image of another person (A) without the knowledge and consent of such other person, (B) while such other person is not in plain view, and (C) under circumstances where such other person has a reasonable expectation of privacy, or

(2) with intent to arouse or satisfy the sexual desire of such person or any other person, such person knowingly photographs, films, videotapes or otherwise records the image of another person (A) without the knowledge and consent of such other person, (B) while such other person is not in plain view, and (C) under circumstances where such other person has a reasonable expectation of privacy.

(b) Voyeurism is a class D felony. *(Emphasis added.)*